

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



**CORRECTED
FISCAL NOTE**

HB 2917 - SB 2897

April 5, 2010

SUMMARY OF BILL: Requires a person convicted of a first, second, third, or fourth offense of driving under the influence (DUI) or a person who refuses to submit to a blood alcohol test to drive only a motor vehicle with a functioning ignition interlock device (IID) for a certain period of time after the person has been prohibited from driving for a certain period of time. Authorizes a person ordered to use an IID for life to petition the Department of Safety (DOS) to have the requirement removed after five years of having an IID installed. Requires a person who is ordered to operate only a motor vehicle equipped with a functioning IID but does not own or lease a vehicle or does not obtain a license requiring the use of an IID from DOS to wear a secure continuous alcohol monitor or maintain random breath tests over the course of a 24-hour period, over a period equal to the period an IID would be required. Requires a person ordered to use only a motor vehicle with an IID to only drive to and from certain locations and to pay a fee of \$65 to the Department of Safety. These requirements will apply to any Tennessee resident whose license has been revoked due to a conviction of DUI in another jurisdiction. Requires a notation on a driver license of any person required to operate only a motor vehicle with an IID. Requires an additional three months of IID use for a person violating IID requirements. Requires all costs associated with the lease, purchase, installation, removal, and maintenance of an ignition interlock device (IID) or alcohol monitoring device be paid exclusively from the Interlock Assistance Fund (IAF), to be created in the State Treasury, if the person ordered to operate a motor vehicle that is equipped with an IID is determined to be indigent. Money will not revert to the General Fund. Requires a person ordered to install an IID to pay a \$15 fee each month to the IID provider in addition to any other costs associated with an IID. The IID provider will remit the fees to the Treasurer who will allocate \$14 to the IAF and \$1 to DOS. Requires each ignition interlock provider to pay a five percent surcharge to the IAF on gross profits made as a result of issuing IIDs. These requirements apply if at least one of the violations resulting in a DUI conviction occurred on or after January 1, 2011.

ESTIMATED FISCAL IMPACT:

On February 15, 2010, we issued a fiscal note for this bill indicating an *increase to state revenue of \$3,479,000/Recurring/Interlock Assistance Fund (IAF), \$237,100/Recurring/Earmarked For Department of Safety, and \$1,969,800/Recurring/General Fund, an increase state expenditures of \$3,479,000 /Recurring/IAF, \$7,364,900/Recurring/General Fund, and \$165,400/One-Time/General Fund, an increase to local revenue of \$303,800/Recurring and a not significant increase to local expenditures.* On April 5, we received additional information from the

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Department of Transportation. Based on this new information, the fiscal impact for this bill is estimated as follows.

(CORRECTED)

Increase State Revenue –

\$3,479,000/Recurring/Interlock Assistance Fund (IAF)
\$237,100/Recurring/Earmarked For Department of Safety
\$1,969,800/Recurring/General Fund

Increase State Expenditures –

\$3,479,000 /Recurring/IAF
\$7,364,900/Recurring/General Fund
\$165,400/One-Time/General Fund

Increase Local Revenue – \$303,800/Recurring

Increase Local Expenditures – Not Significant

Other Fiscal Impact – Non-compliance with federal requirements will result in the transfer of three percent of federal highway funds appropriated to the State for the National Highway System as required by U.S. Title 23 § 164. Approximately \$16,000,000 will be transferred to U.S. Title 23 § 402 highway safety programs.

Assumptions:

- There are approximately 26,000 DUI offenders each year in Tennessee. There are approximately 20,000 first-time offenders. Some drivers are convicted of a second or subsequent offense within the time period that under this bill, the driver would have an IID installed. Some drivers will be required to have an IID installed for a period greater than one year. Some Tennessee driver license holders will be convicted out of state for similar offenses. It is estimated that approximately 26,000 drivers will be required to have an interlock device installed each year.
- Twenty percent (5,200) of DUI offenders will be declared indigent and will not pay the \$15 a month fee. Approximately five percent (1,040) of the remaining 20,800 non-indigent will decline to comply with the requirements. Approximately 19,760 will pay a \$15 monthly fee.
- Pursuant to Section 17, Part (q)(5)(A) of the bill, \$14 of the \$15 monthly fee will be allocated to the Interlock Assistance Fund (IAF). The total amount allocated to the IAF each year from monthly fees will be approximately \$3,319,700 (19,760 non-indigent offenders x \$14 x 12 months).
- Pursuant to Section 17, Part (q)(5)(B) of the bill, \$1 of the \$15 monthly fee is allocated to the Department of Safety to offset the increased expenditures to administer specified provisions of this bill. A total of \$237,120 will be allocated to the Department annually (19,760 x \$1 x 12 months).
- Twenty percent of indigent offenders, or 1,040, do not own a vehicle or will not obtain a driver license with an IID restriction and will choose to have a continuous alcohol

monitor (CAM) device installed. The annual cost of one of these devices can range from approximately \$2,600 to \$9,000. The average cost of a device is estimated to be \$4,500 each year.

- The average cost of installing and maintaining an IID is approximately \$1,230.
- This bill requires non-indigent offenders to cover all costs associated with a device. The cost is significantly less to install an IID than a CAM device. Zero non-indigent offenders will have CAM devices installed.
- The overall average cost to support one indigent offender is approximately \$1,884 ($\$1,230 \times 80\% + \$4,500 \times 20\%$).
- The revenue in the IAF will cover IID and CAM costs for approximately 1,846 indigent offenders ($\$3,479,000 / \$1,884$). Approximately 369 indigent offenders will have a CAM device installed and 1,477 will have an IID installed.
- Approximately \$6,318,900 will be allocated from the General Fund to the IAF to cover the remaining 3,354 offenders ($3,354 \times \$1,884$).
- A total of 21,237 ($19,760 + 1,477$) drivers will have an ignition interlock device installed in their vehicle.
- There will be a five percent surcharge on the gross profits of IID providers in the state which will be paid to the IAF. It is estimated that the average gross profit will be \$150 per device annually. The total estimated revenue from the surcharge is estimated to be approximately \$159,300 ($21,237 \text{ offenders} \times \$150 \text{ gross profit annually per device} \times 5\%$).
- The total increase in recurring revenue to the IAF is approximately \$3,479,000 ($\$3,319,700 + \$159,300$).
- The total increase in recurring expenditures from the IAF will be \$3,479,000.
- Any increase in local government expenditures from the requirements of this bill is estimated to be not significant.
- According to the Board of Probation and Parole (BOPP), the requirements of this bill will increase the responsibilities of Probations and Parole Officers in supervising fourth and subsequent DUI offenders. It is estimated that one additional Officer 2 will be needed in each of the eight districts statewide. The recurring costs associated with one new position are \$46,800 (\$28,700 salary, \$9,800 benefits, \$3,000 travel, and \$5,300 supplies, annual training, and other) and one time costs for supplies are \$800 per position. The total increase in state expenditures to the BOPP is approximately \$374,400 recurring and \$6,400 one-time.
- According to the Department of Safety, approximately 3,900 restricted driver licenses are issued to DUI offenders each year for a fee of \$67. This bill will require each offender who applies for any license to pay a \$65.00 fee. The net impact on recurring state revenue will be an increase of \$1,119,100 ($(\$65 \times 21,237) - (\$67 \times 3,900)$).
- The Department of Safety will need approximately 22 additional Safety Examiner 2 positions to review applications and issue additional licenses. The total recurring cost associated with one position is approximately \$30,525 (\$20,616 salary, \$7,009 benefits, \$2,900 computer software and equipment, phone, supplies). The total increase in recurring state expenditure is approximately \$671,600 ($22 \text{ positions} \times \$30,525$). One-time costs associated with creating 22 new positions will be \$5,000 per position (office space, supplies, computer equipment) for a total of \$110,000.

- The Department of Safety will require 14 computer program changes at a cost of \$3,500 each for a one-time cost of \$49,000.
- Total one-time expenditures from DOS will increase by \$159,000.
- The sale of IID devices will result in taxable sales of approximately \$24,304,800. Approximately half of this amount is estimated to be sales that would have occurred in the absence of this bill. This will result in an increase in state sales and use tax collections of \$850,700 ($\$24,304,800 \times 50\% \times 7\%$ tax rate).
- An increase in local government revenue of approximately \$303,800 derived from an average local option sales tax rate of 2.5 percent ($\$24,304,800 \times 50\% \times 2.5\%$).
- According to the Department of Transportation (TDOT) and the National Highway Traffic Safety Administration, this bill would cause the State to be non-compliant with federal requirements (U.S. Title 23 § 164) for minimum penalties for repeat DUI offenders. The penalty for non-compliance is the transfer of three percent of federal funding for the National Highway System including the surface transportation program and the interstate maintenance component to U.S. Title 23 § 402 highway safety programs. According to TDOT, the amount to be transferred would be approximately \$16,000,000.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

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